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May 10, 2024

Honorable Cathy Seibel  
United States District Judge  
Southern District of New York  
Federal Building and United States Courthouse  
300 Quarropas Street  
White Plains, New York 10601-4150

Re: Hicks, Darnell R. v. Encarnacion, Juan  
23 CIV 1839 (CS)

Your Honor:

Mr. Walsh has not said how much time the parties need, but six weeks or so seems sufficient. The conference is adjourned to 7/15/24 at 11:45 am. Pre-motion letter(s) are due 7/1/24, with response(s) due 7/8/24. The Clerk of Court shall terminate ECF No. 33.

SO ORDERED.

  
CATHY SEIBEL, U.S.D.J.

5/13/24

Our Office represents the defendants in this Matter. A deposition of the plaintiff was conducted yesterday. We are not yet in possession of the transcript of the deposition. We are presently required to submit a pre-motion letter by May 16, 2024.

At the deposition of plaintiff, Mr. Hicks, by holding up his cell phone, showed the undersigned certain videos from social media which plaintiff believes show the police in a negative way. Mr. Hicks testified that he believes that the actions of the police at the time of his arrest were due, at least in part, in retaliation for the posting of these videos. Mr. Hicks has agreed to provide copies of these videos.

In addition, it was learned that the criminal charges against Mr. Hicks arising from the arrest at issue are presently scheduled to be heard on June 26<sup>th</sup>, 2024. Due to the ongoing nature of the criminal charges, there were certain questions posed at the deposition that Mr. Hicks refused to answer. There were also questions posed concerning charges of some kind pending against Mr. Hicks on the day of the incident at issue that he also refused to answer.

Further, it was learned at his deposition that Mr. Hicks claims to have suffered certain ongoing physical injuries at the time of the arrest for which he treated with a Dr.

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Dynoff, a physician with offices in Yonker, N.Y. Mr. Hicks has also treated with Dr. Dynoff for injuries arising out of accidents that led to personal injury lawsuits. Mr. Hicks has agreed to sign and return an authorization for the release of Dr. Dynoff's medical records.

Finally, Mr. Hicks was again arrested by Officers of the Ossining Police Department on April 15, 2024. All police files and videos from that arrest have been provided to him, though he also has video of this arrest which we have not yet received. At present, it is unclear to the undersigned whether Mr. Hicks intends to seek to add claims concerning this subsequent arrest to this lawsuit.

Considering the forgoing, it is respectfully requested that our time to submit a premotion letter be extended to allow receipt of the deposition transcript and a final determination on the pending criminal charges.

Thank you for your consideration.

Respectfully,

*John J. Walsh*

John J. Walsh

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